

## **§ 222.13**

assessed. Each day a violation continues shall constitute a separate offense. Any person who knowingly and willfully falsifies a record or report required by this part may be subject to criminal penalties under 49 U.S.C. 21311. Appendix H of this part contains a schedule of civil penalty amounts used in connection with this part.

[71 FR 47634, Aug. 17, 2006, as amended at 72 FR 51197, Sept. 6, 2007; 73 FR 79702, Dec. 30, 2008; 74 FR 46394, Sept. 9, 2009; 77 FR 24420, Apr. 24, 2012]

### **§ 222.13 Who is responsible for compliance?**

Any person, including but not limited to a railroad, contractor for a railroad, or a local or State governmental entity that performs any function covered by this part, must perform that function in accordance with this part.

### **§ 222.15 How does one obtain a waiver of a provision of this regulation?**

(a) Except as provided in paragraph (b) of this section, two parties must jointly file a petition (request) for a waiver. They are the railroad owning or controlling operations over the railroad tracks crossing the public highway-rail grade crossing and the public authority which has jurisdiction over the roadway crossing the railroad tracks.

(b) If the railroad and the public authority cannot reach agreement to file a joint petition, either party may file a request for a waiver; however, the filing party must specify in its petition the steps it has taken in an attempt to reach agreement with the other party, and explain why applying the requirement that a joint submission be made in that instance would not be likely to contribute significantly to public safety. If the Associate Administrator determines that applying the requirement for a jointly filed submission to that particular petition would not be likely to significantly contribute to public safety, the Associate Administrator shall waive the requirement for joint submission and accept the petition for consideration. The filing party must also provide the other party with a copy of the petition filed with FRA.

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(c) Each petition for waiver must be filed in accordance with 49 CFR part 211.

(d) If the Administrator finds that a waiver of compliance with a provision of this part is in the public interest and consistent with the safety of highway and railroad users, the Administrator may grant the waiver subject to any conditions the Administrator deems necessary.

### **§ 222.17 How can a State agency become a recognized State agency?**

(a) Any State agency responsible for highway-rail grade crossing safety and/or highway and road safety may become a recognized State agency by submitting an application to the Associate Administrator that contains:

(1) A detailed description of the proposed scope of involvement in the quiet zone development process;

(2) The name, address, and telephone number of the person(s) who may be contacted to discuss the State agency application; and

(3) A statement from State agency counsel which affirms that the State agency is authorized to undertake the responsibilities proposed in its application.

(b) The Associate Administrator will approve the application if, in the Associate Administrator's judgment, the proposed scope of State agency involvement will facilitate safe and effective quiet zone development. The Associate Administrator may include in any decision of approval such conditions as he/she deems necessary and appropriate.

## **Subpart B—Use of Locomotive Horns**

### **§ 222.21 When must a locomotive horn be used?**

(a) Except as provided in this part, the locomotive horn on the lead locomotive of a train, lite locomotive consist, individual locomotive or lead cab car shall be sounded when such locomotive or lead cab car is approaching a public highway-rail grade crossing. Sounding of the locomotive horn with two long blasts, one short blast and one long blast shall be initiated at a location so as to be in accordance with